

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-v-	:	15-CR-473 (JMF)
	:	
MARCOS ANTONIO MENDEZ FELIZ,	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
Defendant.	:	
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JESSE M. FURMAN, United States District Judge:

Defendant Marcos Antonio Mendez-Feliz was convicted, following a guilty plea pursuant to a plea agreement, of possession with the intent to distribute controlled substances, but admitted as part of the plea agreement that he “intentionally shot and killed” a man. *See* ECF No. 76 (“Gov’t Opp’n”), at 2; *see also* ECF No. 76-1 (“Plea Agmt.”), at 1 n.1. The Court sentenced him to the statutory maximum of 240 months’ imprisonment. *See* ECF No. 57. On September 17, 2024, Mendez-Feliz, proceeding without counsel, filed a “MOTION FOR CORRECTION OF SENTENCE PURSUANT TO AMENDMENT 684 (2006) USSG § 2D1.1(d)(1), 3582(C)(2) SECOND DEGREE MURDER § 2A1.2(a).” *See* ECF No. 70. The motion appears to seek a sentence reduction, pursuant to 18 U.S.C. § 3582(c)(2), based on Guidelines Amendment 684, which took effect on November 1, 2006.

The motion is DENIED as frivolous. First, although not noted by the Government, Mendez-Feliz’s motion is barred by his plea agreement, in which he explicitly waived his right to “seek a sentence modification pursuant to Title 18, United States Code, Section 3582(c), of any sentence at or below the Stipulated Guidelines Sentence of 240 months’ imprisonment.” Plea Agmt. 5. Second, and in any event, the motion is frivolous substantially for the reasons set forth in the Government’s opposition. *See* Gov’t Opp’n 4-5. First, the Court calculated Mendez-

Feliz’s Guidelines range using the then-applicable 2021 Guidelines Manual, *see* ECF No. 58 (“Sent. Tr.”), at 6, which already incorporated Amendment 684. *See* 18 U.S.C. § 3582(c)(2) (providing an avenue for relief only for a defendant “who has been sentenced to a term of imprisonment based on a sentencing range *that has subsequently been lowered* by the Sentencing Commission” (emphasis added)). Second, and in any event, Amendment 684 is not retroactive. *See* U.S.S.G. § 1B1.10(d); *United States v. Clemendor*, 237 F. App’x 473, 480 (11th Cir. 2007) (unpublished). Third, Mendez-Feliz explicitly stipulated to the Guidelines calculation to which he now objects, *see* Plea Agmt. 4, and he did not raise an objection to it at sentencing, *see* Sent. Tr. 6. And finally, even if Mendez-Feliz were eligible for relief, no sentence reduction would be warranted “according to the factors set forth in [18 U.S.C.] § 3553(a).” *Dillon v. United States*, 560 U.S. 817, 826 (2010). Mendez-Feliz’s offense — which included intentional murder and drug distribution — more than justified the 240-month sentence that he received.


For all of these reasons, Mendez-Feliz’s motion is DENIED. Further, the Court certifies, pursuant to Title 28, United States Code, Section 1915(a)(3), that any appeal from this Order would not be taken in good faith, and *in forma pauperis* status is thus denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to terminate ECF No. 70 and mail this Order to:

Marcos Antonio Mendez Feliz  
 Register No. 87071-054  
 FCI Fort Dix  
 Federal Correctional Institution  
 P.O. BOX 2000  
 Joint Base MDL, NJ 08640

SO ORDERED.

Dated: November 21, 2024  
 New York, New York

  
 JESSE M. FURMAN  
 United States District Judge